IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE THOTTATHIL B.RADHAKRISHNAN

WEDNESDAY, THE 30TH MAY 2007 / 9TH JYAISHTA 1929

OP.No. 18078 of 1997(B)

PETITIONER:

M.MOHAMMED SHAM, RESIDING AT
T.C. 9259, KURUNCODE HOUSE,
SASTHAMANGALAM, THIRUVANANTHAPURAM.

M.MOHAMMED SHAM,

BY ADV. SRI.V.CHITAMBARESH
SRI.T.C.SURESH MENON

RESPONDENTS:

----

1. **THE GENERAL MANAGER(P), REP.BY THE SYNDICATE BANK, HEAD OFFICE, MANIPAL.**

2. **THE SYNDICATE BANK, REP.BY THE DEPUTY GENERAL MANAGER, ZONAL OFFICE, SASTHAMANGALAM , THIRUVANANTHAPURAM.**

3. **THE ASSISTANT GENERAL MANAGER, SYNDICATE BANK ZONAL OFFICE, THIRUVANANTHAPURAM.**

4. **THE MANAGER, SYNDICATE BANK, KOCHUVELI BRANCH, THIRUVANANTHAPURAM.**

BY ADV. SRI.M.P.ASHOK KUMAR
SRI.SAJAN SREERAJ

THIS ORIGINAL PETITION HAVING BEEN FINALLY HEARD ON 30/05/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

OP. NO.18078/1997

ORDER ON CMP. NO.32307/1997 IN OP. NO.18078/1997

DISMISSED

30.05.2007 **SD/-THOTTATHIL B.RADHAKRISHNAN, JUDGE**

APPENDIX

PETITIONER'S EXHIBITS

EXT.P1:- COPY OF THE CHARGE SHEET-CUM-SUSPENSION ORDER ISSUED BY THE 3RD RESPONDENT DT.13.11.1991.

EXT.P2:- COPY OF THE STATEMENT FILED BY THE PETITIONER DT. 8.6.1992.

EXT.P3:- COPY OF THE PASSED BY THE 3RD RESPONDENT DT. 7.8.92.

EXT.P4:- COPY OF THE ORDER PASSED BY THE 1ST RESPONDENT DT. 27.10.1992.

EXT.P5:- COPY OF THE LETTER SENT TO THE PETITIONER BY THE UNION DT. 1.8.97.

RESPONDENTS EXHIBITS

EXT.R1:- COPY OF THE CHARGE SHEET ISSUED BY THE BANK TO THE PETITIONER DT. 18.9.91.

EXT.R2:- COPY OF THE PROCEEDINGS OF THE DISCIPLINARY AUTHORITY, DT. 8.4.92.

EXT.R3:- COPY OF THE PROCEEDINGS OF THE APPELLATE AUTHORITY DT.20.7.92.

/TRUE COPY/

tss

THOTTATHIL B. RADHAKRISHNAN, J.

= =

O.P.No.18078 of 1997-B

= =

Dated this the 30th day of May, 2007.

JUDGMENT

The petitioner, a class iv employee, an Attender in the Syndicate Bank, was charge-sheeted for using abusive words against the Branch Manager inside her cabin. The words attributed to the petitioner are explicitly stated, with their English version, in the memo of charges. The charge against the petitioner, admittedly, is that he was called by the Branch Manager seeking for his delay in attending office after he had gone to the mosque. The petitioner is attributed to have used abusive words against the Manager. The enquiry conducted concluded against the petitioner relying on the testimony of the Branch Manager. The punishment of barring of two increments has been imposed.

2. After labouring quite some time on the materials on record and the sustainability of the findings of guilt, the learned

counsel for the petitioner addressed arguments on the question of proportionality of the punishment imposed.

3. Referring to the question of the sustainability of the findings, though not sitting in appeal, the primary contention urged is that the uncorroborated testimony of the Branch Manager has been accepted and acted upon. The scene of occurrence is inside the cabin of the Branch Manager. In the normal course of official acts within a branch of a bank, one is not expected to see any third person in the cabin of the Branch Manager. The petitioner also does not point out any situation where a third person could have been there in the cabin of the Manager. Therefore, the absence of a third person in the cabin is a situation of common course of human conduct in a bank. Under such circumstances, I find that it would be in vain to search for corroboration by oral evidence for the statement given by the Branch Manager regarding the acts attributed to the delinquent - the petitioner. That apart, in examining the question as to whether the Branch Manager has any personal prejudice, bias etc. as against the petitioner, the only argument is that she did not like the petitioner, a muslim going to the

mosque on every Friday afternoon and that she had been working in the same branch for nearly 25 years. All these contentions are totally unfounded and baseless and no further reasons are required to be stated in support of that view. The disciplinary proceedings withstands all examinations on touch-stones as are prescribed for judicial review of disciplinary proceedings. Therefore, the contentions as against the disciplinary authority fail and they are accordingly rejected.

4. Having regard to the fact that the aforesaid matters have been considered by this Court, the contention of the respondent Bank that the writ petition is not maintainable is not being considered.

5. On to the question of the proportionality of the punishment, having regard to the charge against the petitioner and having regard to the hierarchy of offices and the fact that the petitioner is an attender and the allegations against him are to the effect that abusive words were used against the Branch Manager, a lady and because of the obvious filth that has been stated to have been spoken by the petitioner, a male to the

Branch Manager, a female, if I were to decide the proportionality of the punishment, I shall necessarily conclude that the punishment imposed is on the lighter side. At any rate, it does not call for any interference. I may, incidentally, notice that the impugned order of punishment is made in the year 1992 and the writ petition is filed in 1997.

In the result, the writ petition fails. The same is accordingly dismissed.

THOTTATHIL B. RADHAKRISHNAN,
JUDGE.

Sha/-

THOTTATHIL B. RADHAKRISHNAN, J.

= =

O.P.No.18078 of 1997-B

= =

JUDGMENT

Dated: 30th May, 2007.